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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,490	04/02/2001	James W. Webster	560043620560	9378

7590 07/26/2004
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Jones, Day, Reavis & Pogue
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Chicago, IL 60601-1692

EXAMINER

WILKENS, JANET MARIE

ART UNIT PAPER NUMBER

3637

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/824,490

Applicant(s)

WEBSTER ET AL.

Examiner

Janet M. Wilkens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,12,14 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 2,7-11,13 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Claim Objections

Claim 16 is objected to because of the following informalities: in line 9, "opening" should be "openings". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 16, "one of said front openings" lacks antecedent basis, since only one front opening has been claimed previously. For claim 20, "each side panel" lacks antecedent basis, since only one panel has been positively claimed previously.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-6, 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over McIlwraith (5,020,866) in view of Flores. McIlwraith teaches an enclosure system (Fig. 2) comprising: a frame unit (11) having front, rear, and side

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openings; a flange (31) bordering each of the openings; a first type of seal with a tubular and mounting portion (Fig. 5) mounted to the flanges; sides panels with lips (12); and door panels (13). For claims 1 and 16, McIlwraith fails to teach a second type of seal mounted to side portions of the frame unit. Flores teaches an elongated strip seal with an adhesive layer (142) applied between adjacent structures (This seal being different from the seal of McIlwraith). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the enclosure system of McIlwraith by adding additional seals, such as is taught by Flores, between the side portions of the frame unit and panels (see Attachment A), to further prevent agents such as dirt and dust from entering into the enclosure system. Note: since McIlwraith in view of Flores teaches the structural limitations found in claim 16, the method steps therein would inherently be met. Furthermore, limitations found in "for"/intended use statements have been given no weight in the claims.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over McIlwraith (5,020,866) in view of Flores as applied to claims 1, 3-6, 12 and 16 above, and further in view of Webster. As stated above, McIlwraith in view of Flores teaches the limitations of claim 1, including an enclosure system with a frame unit. McIlwraith in view of Flores further teaches a cap panel (14) on the frame unit. For claim 14, McIlwraith in view of Flores fails to teach that the frame unit is support on a "battery" housing and a pair of skids. Webster teaches a frame unit support on a "battery" housing (18; the adjective battery being simply nomenclature) and pairs of skids (see Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the

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invention to modify the enclosure system of McIlwraith in view of Flores by adding a base, containing a housing and skids, such as is taught by Webster, to provide additional storage space in the system, to provide additional height to the system, and to provide a means which would assist in transporting the system from one location to another.

Allowable Subject Matter

Claims 2, 7-11, 13 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 17-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed April 19, 2004 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning: it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does

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not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In the instant case, plural types of seals are known in the art, including the distinct seals taught by McIlwraith and Flores. To use either or both of them between the door/panels and frame of McIlwraith for the advantages stated above being well within the knowledge of one skilled in the art. The type and number of seals used depending on the space between the features to be sealed, the seal attachment surfaces provided, personnel preferences, etc. Furthermore, it is argued that some compression inherently would take place if seals were placed as stated in Attachment A. Please note: the seal compressing limitations, cited by the applicant in the arguments, appear in intended use /"for" statements and therefore have not been given any weight in the claims. As for the position of the second seals, it is contended that any shearing would be minimal, especially between the panel and frame, and gradual between the door and frame (replacement may become necessary after time; similar to weather stripping replacement). However, even if it were concluded that significant shearing would occur if the seals were located as suggested, moving the second seals to the newly marked locations (see revised Attachment A) would provide the intended advantage minus the fear of any shearing. Furthermore, see Fig. 7 of the instant application wherein the seals 152,156 are positioned similarly to that suggested in Attachment A (would shearing effect those seals?). Finally, see newly cited reference of Cavallini (Fig. 9) wherein two seals are used between a panel and frame.

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

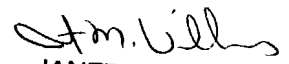
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens
July 21, 2004


JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637

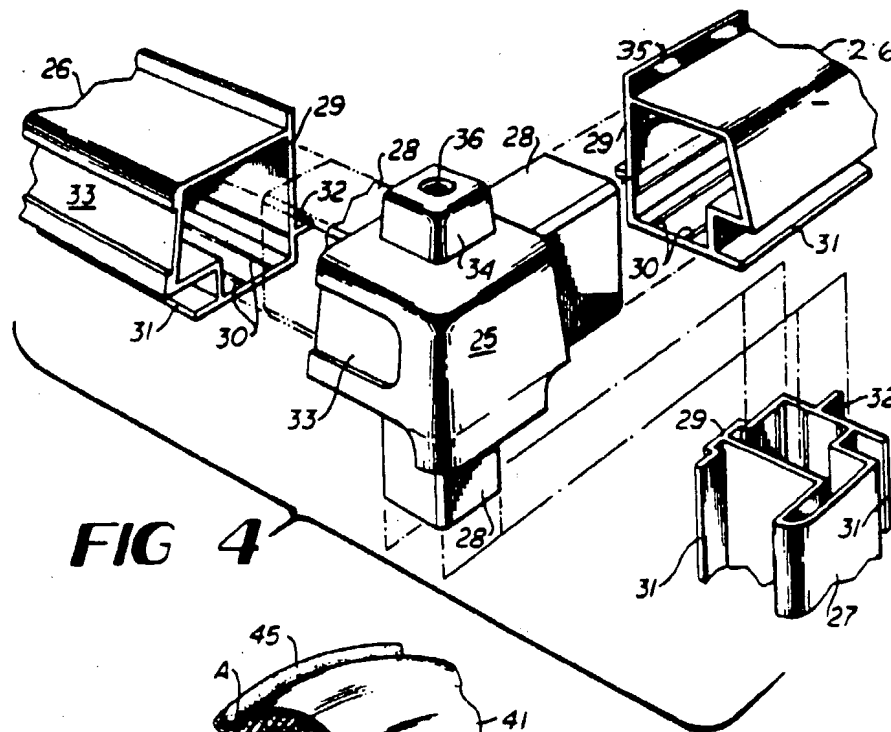


FIG 4

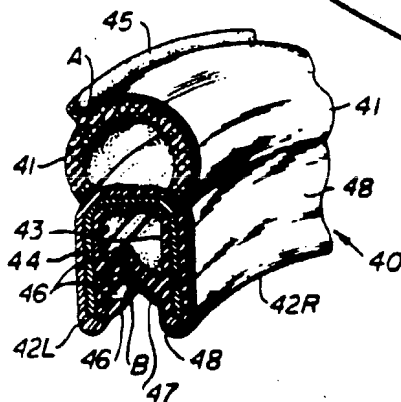


FIG 5

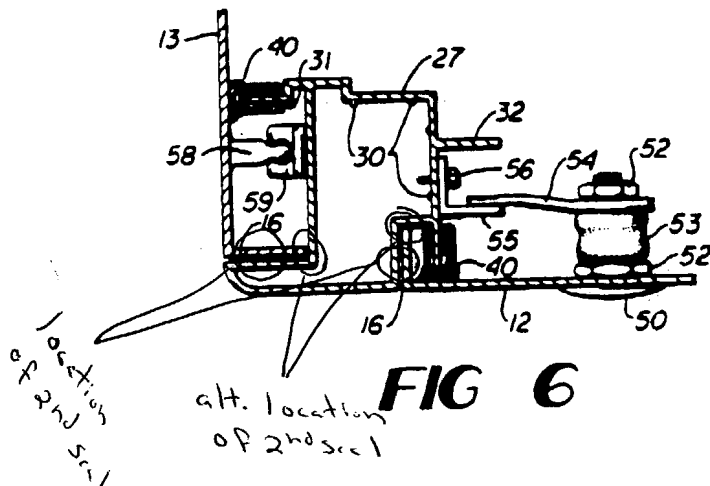


FIG 6